

(UNOFFICIAL COPY)

Massachusetts General Law, Chapter 22, s. 5

Section 5. (a) There shall be a fire prevention regulations appeals board. The appeals board shall consist of the 16 members of the board of fire prevention regulations, established under section 4.

The chairman of the board of fire prevention regulations shall serve as the chairman of the appeals board.

The appeals board may, subject to appropriation and the approval of the state fire marshal, employ clerical, technical and other assistants as may be required by the appeals board.

(b) Whoever is aggrieved by any act, rule, order, directive, decision or requirement of any state or local official charged with the enforcement of the state fire code, relative to the fire protection requirements for buildings or structures, may appeal to the appeals board within 45 days following the service of notice of such act, rule, order, decision, requirement or directive. Appeals filed under this section shall be made on a form as prescribed or approved by the appeals board and shall be accompanied by a reasonable filing fee established by the appeals board. The keeper of the records, and any other person in possession or control of records related to an appeal, for the commonwealth, a city or a town shall, upon request of the appeals board, immediately transmit the records to the appeals board.

An appeal shall stay all proceedings in the furtherance of the action or failure to act which is the subject of the appeal, unless the state or local agency or person charged with the administration or enforcement of the state fire code or any of its rules and regulations presents evidence that a stay would cause imminent peril of life or property.

The chairman of the appeals board shall designate 3 members of the appeals board to hold public hearings, hear testimony and take evidence. The appeals board shall not be bound by the strict rules of evidence prevailing in courts of law or equity. The chairman shall fix the time and place for hearings and a hearing shall take place not later than 60 days following the filing of an appeal, unless such time is extended by agreement with the appellant. The chairman shall give at least 10 days notice of the time and place of the hearing to all interested parties. Any party may appear in person, by agent or by attorney at the hearing.

The 3 members of the appeals board conducting the hearing shall decide the appeal and issue a written decision. Every decision shall require the concurrence of at least 2 of the 3 members and the written decision shall state findings of fact, conclusions and reasons for the decision and indicate the vote of each member participating in the decision.

The appeals board shall issue a decision or order reversing, affirming or modifying, in whole or in part, such interpretation, order or decision, or a postponement of the application thereof, within 45 days following the hearing unless such time is extended by agreement with the appellant.

The appeals board may grant a variance from any provision of the state fire code and related rules and regulations in any particular case, determine the suitability of alternate materials or methods of compliance and provide reasonable interpretations of the state fire code consistent with the purpose thereof.

A record of all appeals board decisions and of votes thereunder, properly indexed, shall be maintained in the office of the department of fire services and shall be open to public inspection at all times during regular business hours.

SECTION 6. This act shall take effect on July 1, 2013.

Approved, January 9, 2013.